



Child Abduction and Custody Act 1985

1985 CHAPTER 60

PART I

INTERNATIONAL CHILD ABDUCTION

1 The Hague Convention.

- (1) In this Part of this Act “the Convention” means the Convention on the Civil Aspects of International Child Abduction which was signed at The Hague on 25th October 1980.
- (2) Subject to the provisions of this Part of this Act, the provisions of that Convention set out in Schedule 1 to this Act shall have the force of law in the United Kingdom.

^{F1}(3)

^{F2}(4)

Textual Amendments

F1 S. 1(3) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 14(2)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

F2 S. 1(4) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 14(2)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

C1 S. 1 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, **Sch.**

S. 1 applied (with modifications) (2.12.1997) by S.I. 1997/2574, art. 2, **Sch.**

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2 Contracting States.

- (1) For the purposes of the Convention as it has effect under this Part of this Act the Contracting States other than the United Kingdom shall be those for the time being specified by an Order in Council under this section.
- (2) An Order in Council under this section shall specify the date of the coming into force of the Convention as between the United Kingdom and any State specified in the Order; and, except where the Order otherwise provides, the Convention shall apply as between the United Kingdom and that State only in relation to wrongful removals or retentions occurring on or after that date.
- (3) Where the Convention applies, or applies only, to a particular territory or particular territories specified in a declaration made by a Contracting State under Article 39 or 40 of the Convention references to that State in subsections (1) and (2) above shall be construed as references to that territory or those territories.

Subordinate Legislation Made

- P1** S. 2: power exercised by [S.I. 1991/995](#)
- P2** S. 2: power exercised by [S.I. 1991/1698](#)
- P3** S. 2: for previous exercises of power, see Index to Government Orders.
- P4** S. 2: power exercised by [S.I.1991/2624](#).
 S. 2; power exercised by [S.I.1991/2870](#).

Modifications etc. (not altering text)

- C2** S. 2 applied (with modifications) (1.3.1997) by [S.I. 1996/3156, art. 2, Sch.](#)
 S. 2 applied (with modifications) (2.12.1997) by [S.I. 1997/2574, art. 2, Sch.](#)

3 Central Authorities.

- (1) Subject to subsection (2) below, the functions under the Convention of a Central Authority shall be discharged—
 - (a) in England and Wales^{F3}... by the Lord Chancellor; and
 - (b) in Scotland by the Secretary of State^{F4}; and
 - (c) in Northern Ireland by the Department of Justice in Northern Ireland]
- (2) Any application made under the Convention by or on behalf of a person outside the United Kingdom may be addressed to the Lord Chancellor as the Central Authority in the United Kingdom.
- ^{F5}(3) Where any such application relates to a function to be discharged under subsection (1) above by an authority (“the responsible authority”) other than the authority to which the application is addressed, the authority to which the application is addressed shall transmit it to the responsible authority.]

Textual Amendments

- F3** Words in s. 3(1)(a) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 18 para. 36\(a\)](#) (with arts. 28-31)
- F4** S. 3(1)(c) and word inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 18 para. 36\(b\)](#) (with arts. 28-31)

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F5 S. 3(3) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 36(c)** (with arts. 28-31)

Modifications etc. (not altering text)

C3 S. 3 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, **Sch.**
S. 3 applied (with modifications) (2.12.1997) by S.I. 1997/2574, art. 2, **Sch.**

4 **Judicial authorities.**

The courts having jurisdiction to entertain applications under the Convention shall be—

- (a) in England and Wales or in Northern Ireland the High Court; and
- (b) in Scotland the Court of Session.

Modifications etc. (not altering text)

C4 S. 4 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, **Sch.**
S. 4 applied (with modifications) (2.12.1997) by S.I. 1997/2574, art. 2, **Sch.**

5 **Interim powers.**

Where an application has been made to a court in the United Kingdom under the Convention, the court may, at any time before the application is determined, give such interim directions as it thinks fit for the purpose of securing the welfare of the child concerned or of preventing changes in the circumstances relevant to the determination of the application.

Modifications etc. (not altering text)

C5 S. 5 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, **Sch.**
S. 5 applied (with modifications) (2.12.1997) by S.I. 1997/2574, art. 2, **Sch.**

6 **Reports.**

Where the Lord Chancellor^[F6], the Department of Justice in Northern Ireland] or the Secretary of State is requested to provide information relating to a child under Article 7(d) of the Convention he may—

- (a) request a local authority or ^[F7]an officer of the Service^[F8] or a Welsh family proceedings officer] to make a report to him in writing with respect to any matter which appears to him to be relevant;
- (b) request the Department of Health and Social Services for Northern Ireland to arrange for a suitably qualified person to make such a report to him;
- (c) request any court to which a written report relating to the child has been made to send him a copy of the report;

and such a request shall be duly complied with.

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Textual Amendments

- F6** Words in s. 6 inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 18 para. 37](#) (with arts. 28-31)
- F7** Words in s. 6(a) substituted (1.4.2001) by [2000 c. 43](#), s. 80(1), [Sch. 7 Pt. II para. 80](#); [S.I. 2001/919](#), [art. 2\(f\)\(ii\)](#)
- F8** Words in s. 6(a) inserted (E.W.) (1.4.2005) by [Children Act 2004 \(c. 31\)](#), s. 67(6), [Sch. 3 para. 3](#); [S.I. 2005/700](#), art. 2(2)

Modifications etc. (not altering text)

- C6** S. 6 applied (with modifications) (1.3.1997) by [S.I. 1996/3156](#), art. 2, [Sch.](#)
 S. 6 applied (with modifications) (2.12.1997) by [S.I. 1997/2574](#), art. 2, [Sch.](#)

7 Proof of documents and evidence.

- (1) For the purposes of Article 14 of the Convention a decision or determination of a judicial or administrative authority outside the United Kingdom may be proved by a duly authenticated copy of the decision or determination; and any document purporting to be such a copy shall be deemed to be a true copy unless the contrary is shown.
- (2) For the purposes of subsection (1) above a copy is duly authenticated if it bears the seal, or is signed by a judge or officer, of the authority in question.
- (3) For the purposes of Articles 14 and 30 of the Convention any such document as is mentioned in Article 8 of the Convention, or a certified copy of any such document, shall be sufficient evidence of anything stated in it.

Modifications etc. (not altering text)

- C7** [S. 7](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156](#), art. 2, [Sch.](#)
[S. 7](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574](#), art. 2, [Sch.](#)

8 Declarations by United Kingdom courts.

The High Court or Court of Session may, on an application made for the purposes of Article 15 of the Convention by any person appearing to the court to have an interest in the matter, make a declaration or declarator that the removal of any child from, or his retention outside, the United Kingdom was wrongful within the meaning of Article 3 of the Convention.

Modifications etc. (not altering text)

- C8** [S. 8](#) applied (with modifications) (1.3.1997) by [S.I. 1996/3156](#), art. 2, [Sch.](#)
[S. 8](#) applied (with modifications) (2.12.1997) by [S.I. 1997/2574](#), art. 2, [Sch.](#)

9 Suspension of court's powers in cases of wrongful removal.

The reference in Article 16 of the Convention to deciding on the merits of rights of custody shall be construed as a reference to—

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- (a) making, varying or revoking a custody order, or [^{F9}a supervision order under section 31 of the Children Act 1989] or [^{F10}Article 50 of the Children (Northern Ireland) Order 1995];
- [^{F11}(aa) enforcing under section 29 of the Family Law Act 1986 a custody order within the meaning of Chapter V of Part I of that Act;]
- (b) registering or enforcing a decision under Part II of this Act;
- [^{F12}(ba) registering or enforcing a decision under the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-Operation in respect of Parental Responsibility and Measures for the Protection of Children that was signed at The Hague on 19 October 1996 (“the 1996 Convention”), except where provisions of the 1996 Convention are invoked in accordance with Article 50 of the 1996 Convention;]
- ^{F13}(c)
- [^{F14}(d) making, varying, amending or revoking a permanence order under section 80 of the Adoption and Children (Scotland) Act 2007 (including a deemed permanence order having effect by virtue of article 13(1) or 14(2) of the Adoption and Children (Scotland) Act 2007 (Commencement No. 4, Transitional and Savings Provisions) Order 2009 (S.S.I. 2009/267)).]
- ^{F15}(e)

Textual Amendments

- F9** Words in s. 9(a) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108, [Sch. 13 para. 57\(1\)](#), [Sch. 14 para. 1\(1\)](#); [S.I. 1991/828](#), [art. 3\(2\)](#)
- F10** Words in s. 9(a) substituted (4.11.1996) by [S.I. 1995/756](#), [art. 11\(2\)](#); [S.R. 1996/297](#), [art. 3](#)
- F11** S. 9(aa) inserted by [Family Law Act 1986 \(c. 55, SIF 49:3\)](#), s. 68(1), [Sch. 1 para. 28](#)
- F12** S. 9(ba) inserted (E.W.N.I.) (1.11.2012) by [Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(England and Wales and Northern Ireland\) Regulations 2010 \(S.I. 2010/1898\)](#), [reg. 1\(2\)](#), [Sch. para. 3](#) and s. 9(ba) inserted (S.) (1.11.2012) by [Parental Responsibility and Measures for the Protection of Children \(International Obligations\) \(Scotland\) Regulations 2010 \(S.S.I. 2010/213\)](#), [reg. 1\(2\)](#), [Sch. para. 1](#)
- F13** S. 9(c) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), [Sch. 14 para. 27\(4\)](#), [Sch. 15](#); [S.I. 1991/828](#) art. 3(2)
- F14** S. 9(d) substituted (15.7.2011) by [The Adoption and Children \(Scotland\) Act 2007 \(Consequential Modifications\) Order 2011 \(S.I. 2011/1740\)](#), [art. 1\(2\)](#), [Sch. 1 para. 2\(2\)](#)
- F15** S. 9(e) repealed (4.11.1996) by [S.I. 1995/756](#), [art. 15](#), [Sch.](#); [S.R. 1996/297](#), [art. 3](#)

Modifications etc. (not altering text)

- C9** S. 9 applied (with modifications) (1.3.1997) by [S.I. 1996/3156](#), [art. 2](#), [Sch.](#)
S. 9 applied (with modifications) (2.12.1997) by [S.I. 1997/2574](#) art. 2, [Sch.](#)

10 Rules of court.

- (1) An authority having power to make rules of court may make such provision for giving effect to this Part of this Act as appears to that authority to be necessary or expedient.
- (2) Without prejudice to the generality of subsection (1) above, rules of court may make provision—
 - (a) with respect to the procedure on applications for the return of a child and with respect to the documents and information to be furnished and the notices to be given in connection with any such application;

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- (b) for the transfer of any such application between the appropriate courts in the different parts of the United Kingdom;
- (c) for the giving of notices by or to a court for the purposes of the provisions of Article 16 of the Convention and section 9 above and generally as respects proceedings to which those provisions apply;
- (d) for enabling a person who wishes to make an application under the Convention in a Contracting State other than the United Kingdom to obtain from any court in the United Kingdom an authenticated copy of any decision of that court relating to the child to whom the application is to relate.

Modifications etc. (not altering text)

- C10** S. 10 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
 S. 10 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

11 Cost of applications.

The United Kingdom having made such a reservation as is mentioned in the third paragraph of Article 26 of the Convention, the costs mentioned in that paragraph shall not be borne by any Minister or other authority in the United Kingdom except so far as they fall to be so borne [^{F16}by virtue of—

[^{F17}(a) the provision of any civil legal services (within the meaning of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012) under arrangements made for the purposes of that Part of that Act,] or

[^{F18}(aa) the provision of civil legal services by the Department of Justice, or]

(b) the grant of legal aid or legal advice and assistance under.]

the ^{M1}Legal Aid (Scotland) Act 1967 [^{F19}or], Part I of the ^{M2}Legal Advice and Assistance Act 1972 [^{F20}or the ^{M3}Legal Aid Advice and Assistance (Northern Ireland) Order 1981].

Textual Amendments

- F16** Words and s. 11(a)(b) inserted in s. 11 (1.4.2000 for certain purposes and otherwise 1.4.2001) by 1999 c. 22, s. 24, Sch. 4 para. 31 (with Sch. 14 para 7(2)); S.I. 2000/774, art. 2(a)(i) (subject to arts. 3-4); S.I. 2001/916, art. 3(a)(ii)
- F17** S. 11(a) substituted (1.4.2013) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 5 para. 26; S.I. 2013/453, art. 3(h) (with savings and transitional provisions in S.I. 2013/534, art. 6)
- F18** S. 11(aa) inserted (N.I.) (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 4 para. 8(a) (with art. 45) (as amended (18.11.2014) by Legal Aid and Coroners' Courts Act (Northern Ireland) 2014 (c. 11), Sch. 2 para 6(43)(a)(v)); S.R. 2015/194, art. 2, Sch. (with art. 3)
- F19** Word in s. 11 inserted (N.I.) (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 4 para. 8(b) (with art. 45); S.R. 2015/194, art. 2, Sch. (with art. 3)
- F20** Words in s. 11 repealed (N.I.) (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 5 (with art. 45); S.R. 2015/194, art. 2, Sch. (with art. 3)

Modifications etc. (not altering text)

- C11** S. 11 applied (with modifications) (1.3.1997) by S.I. 1996/3156, art. 2, Sch.
 S. 11 applied (with modifications) (2.12.1997) by S.I. 1997/2574 art. 2, Sch.

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Marginal Citations

M1 1967 c. 43.

M2 1972 c. 50.

M3 S.I. 1981/228 (N.I. 8).

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 3 para. 8(ba) inserted by [2022 c. 18 \(N.I.\) Sch. 3 para. 3\(a\)](#)